

public likely to result from disclosure: Whether disclosure of the requested information will contribute to “public understanding”;

(iv) The significance of the contribution to public understanding: Whether the disclosure is likely to contribute “significantly” to public understanding of government operations or activities;

(v) The existence and magnitude of a commercial interest: Whether the requester has a commercial interest that would be furthered by the requested disclosure; and, if so

(vi) The primary interest in disclosure: Whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is “primarily in the commercial interest of the requester.”

This fee waiver and reduction provision will be implemented in accordance with guidelines issued by the U.S. Department of Justice on April 2, 1987 and entitled “New FOIA Fee Waiver Policy Guidance.” A copy of these guidelines may be inspected or obtained from the Surface Transportation Board’s Freedom of Information Office, Washington, DC 20423.

(g) Payment for services described in paragraphs (a) through (f) of this section may be made in cash or by postal money order or check payable to the order of the Secretary, Surface Transportation Board, Washington, D.C., and forwarded to his office.

(h) Transcript of testimony and of oral argument, or extracts therefrom, may be purchased by the public from the Board’s official reporter. For information regarding the official reporter, contact the Secretary, Surface Transportation Board, Washington, DC 20423.

[32 FR 20010, Dec. 20, 1967]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 1002.1, see the List of CFR Sections Affected located in the Finding Aids section of this volume.

§ 1002.2 Filing fees.

(a) *Manner of payment.* (1) Except as specified in this section, all filing fees will be payable at the time and place the application, petition, notice, tariff,

contract summary, or other document is tendered for filing. The filing fee for tariffs, including schedules, and contracts summaries including supplements (Item 78) may be charged to tariff filing fee accounts established by the Board in accordance with paragraph (a)(2) of this section.

(2) *Billing account procedure.* Form STB-1032 must be submitted to the Board’s Budget and Fiscal Office to establish a tariff filing fee account or an insurance service fee account.

(i) Each account will have a specific billing date within each month and a billing cycle. The billing date is the date that the bill is prepared and printed. The billing cycle is the period between the billing date in one month and the billing date in the next month. A bill for each account which has activity or an unpaid balance during the billing cycle will be sent on the billing date each month. Payment will be due 20 days from the billing date. Payments received before the next billing date are applied to the account. Interest will accrue in accordance with 49 CFR 1018.30.

(ii) The Debt Collection Act of 1982, including disclosure to the consumer reporting agencies and the use of collection agencies, as prescribed in the Board’s Debt Collection Regulations in 49 CFR part 1018, will be utilized to encourage payment where appropriate.

(iii) An account holder who files a petition in bankruptcy or who is the subject of a bankruptcy proceeding must provide the following information to the Chief, Budget and Fiscal Office, Surface Transportation Board, Washington, DC:

(A) The filing date of the bankruptcy petition;

(B) The court in which the bankruptcy petition was filed;

(C) The type of bankruptcy proceeding;

(D) The name, address, and telephone number of its representative in the bankruptcy proceeding; and

(E) The name, address, and telephone number of the bankruptcy trustee, if one has been appointed.

(3) Fees will be payable to the Surface Transportation Board by a check payable in United States currency drawn upon funds deposited in a United

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States or foreign bank or other financial institution, money order payable in United States' currency, or credit card (VISA or MASTERCARD).

(b) Any filing, other than a tariff filing, that is not accompanied by the appropriate filing fee is deficient except for filings that satisfy the deferred payment procedures in paragraph (a) of this section. However, the Board may find that a tariff which is submitted without the appropriate filing fee is deficient and reject the tariff filing, if the filer repeatedly fails to submit the appropriate filing fee after the Board has advised the filer of the proper filing fee and tariff filing procedures.

(c) *Fees not refundable.* Fees will be assessed for every filing in the type of proceeding listed in the schedule of fees contained in paragraph (f) of this section, subject to the exceptions contained in paragraphs (d) and (e) of this section. After the application, petition, notice, tariff, contract, or other document has been accepted for filing by the Board, the filing fee will not be refunded, regardless of whether the application, petition, notice, tariff, contract, or other document is granted or approved, denied, rejected before docketing, dismissed, or withdrawn. If an individual exemption proceeding becomes a matter of general applicability and is handled through the rulemaking process, the Board will refund the filing fee.

(d) *Related or consolidated proceedings.*

(1)(i) Except as provided for in paragraph (d)(1)(ii) of this section, separate fees need not be paid for related applications filed by the same applicant that would be the subject of one proceeding.

(ii) In proceedings filed under the rail consolidation procedures at 49 CFR part 1180, the applicable filing fee must be paid for each proceeding submitted concurrently with the primary application. The fee for each type of proceeding is set forth in the fee schedule contained in paragraph (f) of this section.

(2) A separate fee will be assessed for the filing of an application for temporary authority to operate a motor carrier of passengers as provided for in paragraph (f)(5) of this section regardless of whether such application is related to a corresponding transfer pro-

ceeding as provided for in paragraph (f)(2) of this section.

(3) The Board may reject concurrently filed applications, petitions, notices, contracts, or other documents asserted to be related and refund the filing fee if, in its judgment, they embrace two or more severable matters which should be the subject of separate proceedings.

(e) *Waiver or reduction of filing fees.* It is the general policy of the Board not to waive or reduce filing fees except as described below:

(1) Filing fees are waived for an application or other proceeding which is filed by a federal government agency, or a state or local government entity. For purposes of this section the phrases "federal government agency" or "government entity" do not include a quasi-governmental corporation or government subsidized transportation company.

(2) In extraordinary situations the Board will accept requests for waivers or fee reductions in accordance with the following procedure:

(i) *When to request.* At the time that a filing is submitted to the Board the applicant may request a waiver or reduction of the fee prescribed in this part. Such request should be addressed to the Secretary.

(ii) *Basis.* The applicant must show the waiver or reduction of the fee is in the best interest of the public, or that payment of the fee would impose an undue hardship upon the requestor.

(iii) *Board action.* The Secretary will notify the applicant of the decision to grant or deny the request for waiver or reduction.

(f) *Schedule of filing fees.*

Type of proceeding	Fee
PART I: Non-Rail Applications or Proceedings to Enter Upon a Particular Financial Transaction or Joint Arrangement:	
(1) An application for the pooling or division of traffic.	\$2,800
(2) An application to consolidate, merge, purchase, lease, or contract to operate the properties or franchises of motor carriers of passengers or to acquire control of motor carriers of passengers, under 49 U.S.C. 14303.	1,300
(3) An application for approval of a non-rail rate association agreement. 49 U.S.C. 13706.	17,900

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Type of proceeding	Fee
(4) An application for approval of an amendment to a non-rail rate association agreement:	
(i) Significant amendment	3,000
(ii) Minor amendment	60
(5) A request for interim approval in connection with a finance application involving a motor carrier of passengers, under 49 U.S.C. 14303(i).	300
(6)–(10) [Reserved]	
PART II: Rail Licensing Proceedings other than Abandonment or Discontinuance Proceedings:	
(11) (i) An application for a certificate authorizing the extension, acquisition, or operation of lines of railroad. 49 U.S.C. 10901.	4,700
(ii) Notice of exemption under 49 CFR 1150.31–1150.35.	1,200
(iii) Petition for exemption under 49 U.S.C. 10502.	8,100
(12) (i) An application involving the construction of a rail line.	48,300
(ii) A notice of exemption involving construction of a rail line under 49 CFR 1150.36.	1,200
(iii) A petition for exemption under 49 U.S.C. 10502 involving construction of a rail line.	48,300
(13) A Feeder Line Development Program application filed under 49 U.S.C. 10907(b)(1)(A)(i) or 10907(b)(1)(A)(ii).	2,600
(14) (i) An application of a class II or class III carrier to acquire an extended or additional rail line under 49 U.S.C. 10902.	4,000
(ii) Notice of exemption under 49 CFR 1150.41–1150.45.	1,200
(iii) Petition for exemption under 49 U.S.C. 10502 relating to an exemption from the provisions of 49 U.S.C. 10902.	4,300
(15) A notice of a modified certificate of public convenience and necessity under 49 CFR 1150.21–1150.24.	1,100
(16)–(20) [Reserved]	
PART III: Rail Abandonment or Discontinuance of Transportation Services Proceedings:	
(21) (i) An application for authority to abandon all or a portion of a line of railroad or discontinue operation thereof filed by a railroad (except applications filed by Consolidated Rail Corporation pursuant to the Northeast Rail Service Act [Subtitle E of Title XI of Pub. L. 97–35], bankrupt railroads, or exempt abandonments.	14,300
(ii) Notice of an exempt abandonment or discontinuance under 49 CFR 1152.50.	2,400
(iii) A petition for exemption under 49 U.S.C. 10502.	4,100
(22) An application for authority to abandon all or a portion of a line of a railroad or operation thereof filed by Consolidated Rail Corporation pursuant to Northeast Rail Service Act.	300
(23) Abandonments filed by bankrupt railroads.	1,200
(24) A request for waiver of filing requirements for abandonment application proceedings.	1,100
(25) An offer of financial assistance under 49 U.S.C. 10904 relating to the purchase of or subsidy for a rail line proposed for abandonment.	1,000

Type of proceeding	Fee
(26) A request to set terms and conditions for the sale of or subsidy for a rail line proposed to be abandoned.	14,600
(27) A request for a trail use condition in an abandonment proceeding under 16 U.S.C. 1247(d).	150
(28)–(35) [Reserved]	
PART IV: Rail Applications to Enter Upon a Particular Financial Transaction or Joint Arrangement:	
(36) An application for use of terminal facilities or other applications under 49 U.S.C. 11102.	12,300
(37) An application for the pooling or division of traffic. 49 U.S.C. 11322.	6,600
(38) An application for two or more carriers to consolidate or merge their properties or franchises (or a part thereof) into one corporation for ownership, management, and operation of the properties previously in separate ownership. 49 U.S.C. 11324:.	
(i) Major transaction	966,700
(ii) Significant transaction	193,300
(iii) Minor transaction	5,000
(iv) Notice of an exempt transaction under 49 CFR 1180.2(d).	1,100
(v) Responsive application	5,000
(vi) Petition for exemption under 49 U.S.C. 10502.	6,100
(39) An application of a non-carrier to acquire control of two or more carriers through ownership of stock or otherwise. 49 U.S.C. 11324:.	
(i) Major transaction	966,700
(ii) Significant transaction	193,300
(iii) Minor transaction	5,000
(iv) Notice of an exempt transaction under 49 CFR 1180.2(d).	900
(v) Responsive application	5,000
(vi) Petition for exemption under 49 U.S.C. 10502.	6,100
(40) An application to acquire trackage rights over, joint ownership in, or joint use of any railroad lines owned and operated by any other carrier and terminals incidental thereto. 49 U.S.C. 11324:.	
(i) Major transaction	966,700
(ii) Significant transaction	193,300
(iii) Minor transaction	5,000
(iv) Notice of an exempt transaction under 49 CFR 1180.2(d).	800
(v) Responsive application	5,000
(vi) Petition for exemption under 49 U.S.C. 10502.	6,100
(41) An application of a carrier or carriers to purchase, lease, or contract to operate the properties of another, or to acquire control of another by purchase of stock or otherwise. 49 U.S.C. 11324:.	
(i) Major transaction	966,700
(ii) Significant transaction	193,300
(iii) Minor transaction	5,000
(iv) Notice of an exempt transaction under 49 CFR 1180.2(d).	950
(v) Responsive application	5,000
(vi) Petition for exemption under 49 U.S.C. 10502.	4,300
(42) Notice of a joint project involving relocation of a rail line under 49 CFR 1180.2(d)(5).	1,600
(43) An application for approval of a rail rate association agreement. 49 U.S.C. 10706.	45,200

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Type of proceeding	Fee
(44) An application for approval of an amendment to a rail rate association agreement. 49 U.S.C. 10706:.	
(i) Significant amendment	8,400
(ii) Minor amendment	60
(45) An application for authority to hold a position as officer or director under 49 U.S.C. 11328.	500
(46) A petition for exemption under 49 U.S.C. 10502 (other than a rulemaking) filed by rail carrier not otherwise covered.	5,200
(47) National Railroad Passenger Corporation (Amtrak) conveyance proceeding under 45 U.S.C. 562.	150
(48) National Railroad Passenger Corporation (Amtrak) compensation proceeding under Section 402(a) of the Rail Passenger Service Act.	150
(49)–(55) [Reserved]	
PART V: Formal Proceedings:	
(56) A formal complaint alleging unlawful rates or practices of carriers:.	
(i) A formal complaint filed under the coal rate guidelines (Stand-Alone Cost Methodology) alleging unlawful rates and/or practices of rail carriers under 49 U.S.C. 10704(c)(1) except a complaint filed by small shipper.	27,000
(ii) A formal complaint involving rail maximum rates filed by a small shipper.	1,000
(iii) All other formal complaints (except competitive access complaints).	2,600
(iv) Competitive access complaints	150
(57) A complaint seeking or a petition requesting institution of an investigation seeking the prescription or division of joint rates or charges. 49 U.S.C. 10705.	5,700
(58) A petition for declaratory order:.	
(i) A petition for declaratory order involving a dispute over an existing rate or practice which is comparable to a complaint proceeding.	1,000
(ii) All other petitions for declaratory order	1,400
(59) An application for shipper antitrust immunity. 49 U.S.C. 10706(a)(5)(A).	4,500
(60) Labor arbitration proceedings	150
(61) Appeals to a Surface Transportation Board decision and petitions to revoke an exemption pursuant to 49 U.S.C. 10502(d).	150
(62) Motor carrier undercharge proceedings	150
(63)–(75) [Reserved]	
PART VI: Informal Proceedings:	
(76) An application for authority to establish released value rates or ratings for motor carriers and freight forwarders of household goods under 49 U.S.C. 14706.	800
(77) An application for special permission for short notice or the waiver of other tariff publishing requirements.	80
(78) (i) The filing of tariffs, including supplements, or contract summaries.	\$1 per page (\$16 minimum charge.)
(ii) Tariffs transmitted by fax	\$1 per page
(79) Special docket applications from rail and water carriers:.	
(i) Applications involving \$25,000 or less ..	50
(ii) Applications involving over \$25,000	100
(80) Informal complaint about rail rate applications.	350
(81) Tariff reconciliation petitions from motor common carriers:.	
(i) Petitions involving \$25,000 or less	50
(ii) Petitions involving over \$25,000	100

Type of proceeding	Fee
(82) Request for a determination of the applicability or reasonableness of motor carrier rates under 49 U.S.C. 13710(a) (2) and (3).	150
(83) Filing of documents for recordation. 49 U.S.C. 11301 and 49 CFR 1177.3(c).	26 per document
(84) Informal opinions about rate applications (all modes).	150
(85) A railroad accounting interpretation	700
(86) An operational interpretation	950
(87) Arbitration of Certain Disputes Subject to the Statutory Jurisdiction of the Surface Transportation Board under 49 CFR 1108:.	
(i) Complaint	75
(ii) Answer (per defendant), Unless Declining to Submit to Any Arbitration.	75
(iii) Third Party Complaint	75
(iv) Third Party Answer (per defendant), Unless Declining to Submit to Any Arbitration.	75
(v) Appeals of Arbitration Decisions or Petitions to Modify or Vacate an Arbitration Award.	150
(88)–(95) [Reserved]	
PART VII: Services:	
(96) Messenger delivery of decision to a railroad carrier's Washington, DC, agent.	20 per delivery
(97) Request for service or pleading list for proceedings.	15 per list
(98) (i) Processing the paperwork related to a request for the Carload Waybill Sample to be used in a Surface Transportation Board or State proceeding that does not require a Federal Register notice.	200
(ii) Processing the paperwork related to a request for Carload Waybill Sample to be used for reasons other than a Surface Transportation Board or State proceeding that requires a FEDERAL REGISTER notice.	400
(99) (i) Application fee for the Surface Transportation Board's Practitioners' Exam.	100
(ii) Practitioners' Exam Information Package.	25
(100) Uniform Railroad Costing System (URCS) software and information:.	
(i) Initial PC version URCS Phase III software program and manual.	50
(ii) Updated URCS PC version Phase III cost file, if computer disk provided by requestor.	10
(iii) Updated URCS PC version Phase III cost file, if computer disk provided by the Board.	20
(iv) Public requests for <i>Source Codes</i> to the PC version URCS Phase III.	500
(v) PC version or mainframe version URCS Phase II.	400
(vi) PC version or mainframe version Updated Phase II databases.	50
(vii) Public requests for <i>Source Codes</i> to PC version URCS Phase II.	1,500
(101) Carload Waybill Sample data on recordable compact disk (R-CD):.	
(i) Requests for Public Use File on R-CD—First Year.	450
(ii) Requests for Public Use File on R-CD Each Additional Year.	150
(iii) Waybill—Surface Transportation Board or State proceedings on R-CD—First Year.	650

Type of proceeding	Fee
(iv) Waybill—Surface Transportation Board or State proceedings on R-CD—Second Year on same R-CD.	450
(v) Waybill—Surface Transportation Board or State proceeding on R-CD—Second Year on different R-CD.	500
(vi) User Guide for latest available Carload Waybill Sample.	50

(g) *Returned check policy.* (1) If a check submitted to the Board for a filing or service fee is dishonored by a bank or financial institution on which it is drawn, the Board will notify the person who submitted the check that:

(i) All work will be suspended on the filing or proceeding, other than a tariff filing, until the check is made good;

(ii) A returned check charge of \$6.00 and any bank charges incurred by the Board as a result of the dishonored check must be submitted with the filing fee which is outstanding; and

(iii) If payment is not made within the time specified by the Board, the proceeding will be dismissed or the filing may be rejected.

(2) If a person repeatedly submits dishonored checks to the Board for filing fees, the Board may notify the person that all future filing fees must be submitted in the form of a certified or cashier's check or a money order.

[49 FR 18492, May 1, 1984]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 1002.2, see the List of CFR Sections affected in the Finding Aids section of this volume.

§ 1002.3 Updating user fees.

(a) *Update.* Each fee established in this part shall be updated in accordance with this section at least once a year. However, any fee may be updated more than once a year, if the Board finds that an additional update is necessary.

(b) *Publication and effective dates.* Updated fees shall be published in the FEDERAL REGISTER and shall become effective 30 days after publication.

(c) *Payment of fees.* Any person submitting a filing for which a fee is established shall pay the fee in effect at the time of the filing.

(d) *Method of updating fees.* Each fee shall be updated by updating the cost components comprising the fee. Cost

components shall be updated as follows:

(1) Direct labor costs shall be updated by multiplying base level direct labor costs by percentage changes in average wages and salaries of Board employees. Base level direct labor costs are direct labor costs determined by the cost study set forth in *Revision of Fees For Services*, 1 I.C.C.2d 60 (1984) or subsequent cost studies. The base period for measuring changes shall be April 1984.

(2) Operations overhead shall be developed each year on the basis of current relationships existing on a weighted basis, for indirect labor applicable to the first supervisory work centers directly associated with user fee activity. Actual updating of operations overhead will be accomplished by applying the current percentage factor to updated direct labor, including current governmental overhead costs.

(3)(i) Office general and administrative costs shall be developed each year on the basis of current level costs, i.e., dividing actual office general and administrative costs for the current fiscal year by total office costs for the Offices directly associated with user fee activity. Actual updating of office general and administrative costs will be accomplished by applying the current percentage factor to updated direct labor, including current governmental overhead and current operations overhead costs.

(ii) Board general and administrative costs shall be developed each year on the basis of current level costs; i.e., dividing actual Board general and administrative costs for the current fiscal year by total agency expenses for the current fiscal year. Actual updating of Board general and administrative costs will be accomplished by applying the current percentage factor to updated direct labor, including current governmental overhead, operations overhead and office general and administrative costs.

(4) Publication costs shall be adjusted on the basis of known changes in the costs applicable to publication of material in the FEDERAL REGISTER.

(e) *Rounding of updated fees.* Updated fees shall be rounded in the following manner: (1) Fees between \$1–\$30 will be